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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,057	09/26/2001	Brian Marquette	44846.830002.000	2669
26582	7590	07/12/2005	EXAMINER	
HOLLAND & HART, LLP 555 17TH STREET, SUITE 3200 DENVER, CO 80201			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/965,057

Applicant(s)

MARQUETTE ET AL.

Examiner

Viet Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/03; 10/01</u> . | 6) <input type="checkbox"/> Other: _____ |

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Art Rejections:

1. The text of 35 U.S.C. § 103(a) cited in the previous office action is hereby incorporated by reference.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seeds, U.S. Pat. No. 6,763,520.

Per claim 1, Seeds discloses a system and method for serving client requests comprising:

- a) providing at least one access/dispatch server (24, fig. 2) that has access to a plurality of server application instances (30, fig. 2), each of the instances capable of receiving and processing client requests (see Seeds in col 3, lines 49-57);
- b) receiving and storing client request in an input request queue (see Seeds in col 4, lines 1-17);
- c) checking for an available communication path/slot (28, fig. 2) and sending the stored request to the available communication path/slot, wherein an available communication path/slot being present when a server application instance assigned to the slot is available and ready to accept a new request (see Seeds in col 4, lines 40-52 and col 7, lines 11-29), wherein a cost estimator load balancing algorithm are employed to enable multiplexing the requests to server application instances to minimize cost associated with the service (see Seeds in cols 8-10).

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Seeds does not disclose a communication access device for establishing a communication link with a client in response to receiving the client request. The use of a communication access device to establish communication link between a server and client is well known in the art as disclosed by Wiryaman. Particularly, Wiryaman discloses an access device for use with a network server (see Wiryaman in page 3, par. 53-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Wiryaman communication access device in Seeds because it would have enabled establishing a communication link with the client for the requested session.

Wiryaman also teaches multiplexing user requests, network bandwidth allocation and traffic scheduling (see page 6, par 72-76 and page 7, par 87).

Per claim 2, Wiryaman teaches identifying media transmission protocol from the request (see page 4, par 64).

Per claim 3, Wiryaman also teaches detecting transmission error and retransmitting the request in response to the detected transmission error (see page 7, par 78). Wiryaman does not teach verifying transmitted packets. An official notice is taken that checking/verifying transmitted packets is a well-known method for detecting a transmission error.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a conventional packet verification method in Wiryaman because it would have enabled detecting packet transmission errors.

Per claims 4-6, it is also noted that Wiryaman's teachings are applicable to any conventional communication protocols.

Per claim 7, Wiryaman further teaches using a request (packet) handler for generating a new service request (new session/flow) (see Wiryaman in page 5, par 66).

Per claim 8, Wiryaman teaching initializing and processing the initial request (see Wiryaman in pages 6-7). Wiryaman does not explicitly teach using a specific programming protocol to invoke or initialize the request handler and application handler.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any conventional programming protocols in Wiryaman to implement the request handler and the application handler because it would have enabled the access server to invoke the desired functions for processing packets and/or client requests.

Claims 9-23 are similar in scope as that of claims 1-8.

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Response to Amendment:

3. Applicant's arguments filed on 5/12/05 with respect to claims 1-24 have been fully considered but they are moot in view of new ground of rejection set forth above.

Conclusion:

4. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.



VIET D. VU
PRIMARY EXAMINER

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7/8/05